

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

VIVIAN BERT, et al.

Plaintiffs,

VS.

CASE NO.

AK STEEL CORPORATION,

Defendant.

10

11

Deposition of: SUSAN R. LESTER

Taken: By the Plaintiffs
Pursuant to Notice

Date: February 16, 2005

Time: Commencing at 8:02 a.m.

Place: Taft, Stettinius &
Hollister, LLP
425 Walnut Street
Suite 1800
Cincinnati, Ohio 45202

Before: Karen Volk, RPR
Notary Public - State of Ohio

ORIGINAL

1 APPEARANCES:

2

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4

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33 Stephanie Bisselberg, Esq.
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35 AK Steel Corporation
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39

40 Also Present:

41

42 Phyllis Short

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I N D E X

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1 SUSAN R. LESTER
2 of lawful age, a witness herein, being first duly
3 sworn as hereinafter certified, was examined and
4 deposed as follows:

5 CROSS-EXAMINATION

6 BY MR. CHILDS:

7 Q. State your name for the record, please,
8 ma'am.

9 A. Susan Lester.

10 Q. Susan, by whom are you employed?

11 A. AK Steel Corporation.

12 Q. And where do you work for AK Steel?

13 A. Ashland, Kentucky.

14 Q. All right. What position are you in?

15 A. I'm the manager of human resources.

16 Q. How long have you been the manager of
17 human resources?

18 A. I've been in that position since '93.

19 Q. And what do you do as the manager of human
20 resources?

21 A. I take care of all recruiting and hiring.

22 Q. Is that the bulk of your work as an HR
23 manager, involved in recruiting and hiring?

24 A. I do salary administration work, also.

25 Q. Do you have anybody else that assists you

1 in performing this recruiting, hiring, salary
2 administration duties for the Ashland plant?

3 A. No, sir.

4 Q. You've handled these, either yourself or
5 under your supervision and control, since 1993?

6 A. Yes, sir.

7 MR. CHILDS: All right. Ms. Court
8 Reporter, do you have a copy of the notice of
9 30(b)6 deposition?

10 THE COURT REPORTER: Yes.

11 MR. CHILDS: Would you mark that as
12 Exhibit 1, please?

13 (Exhibit 1 was marked for identification.)

14 MR. CHILDS: Greg, I would, for the
15 record, like for you to indicate that
16 Ms. Lester is being produced by the company --
17 or the defendant in this case, AK Steel, to
18 answer the questions posed by paragraph 2 in
19 this notice of 30(b)6 deposition, is that
20 correct, at least for the Ashland plant?

21 MR. ROGERS: AK Steel designates Susan
22 Lester to answer your questions concerning
23 paragraph 2 of the notice concerning the
24 Ashland Works.

25 MR. CHILDS: As its 30(b)6 witness?

1 MR. ROGERS: Yes.

2 MR. CHILDS: All right.

3 Q. Let me ask you this question. We'll go
4 back and finish up in just a second.

5 Prior to being the manager of HR at
6 Ashland, before '93, did you work at AK Steel before
7 then?

8 A. Yes, sir.

9 Q. What positions did you hold before you
10 your manager of HR position?

11 A. I was -- since 1974 when I hired in I was
12 a training assistant and personnel representative,
13 both in training and employment.

14 Q. Okay. So you've been an AK Steel employee
15 for most of your adult life then?

16 A. That's correct.

17 Q. Okay. And has the whole time been spent
18 at the Ashland Works?

19 A. Yes, sir.

20 Q. Okay. Most of the questions, as you can
21 see based on the 30(b)(6) notice, are going to be
22 addressed to the time frame of January 1st, 2000 to
23 the present. And I will remind you and try to remind
24 you about your responses in that regard, keeping it
25 to that time frame. Basically that's where we're

1 looking, January of 2000 to the present.

2 A. Okay.

3 Q. Would you tell me exactly what the Ashland
4 Works is composed of? Are there one or two plants
5 there? Exactly what does AK Steel have at the
6 Ashland Works?

7 A. We have two facilities. They're both
8 considered Ashland Works but they're at two different
9 locations.

10 Q. Would you describe those for the record,
11 ma'am?

12 A. Yes. We have a coke making facility where
13 you produce coke out of coal. Then that is sent by
14 railcars to the main steel plant. At the main steel
15 plant you have a blast furnace, you have a basic
16 oxygen shop, a caster. We don't do any rolling at
17 Ashland but we do get some quales back because we
18 have a finish line that puts a zinc coating on the
19 steel.

20 Q. Okay. Are those called basically the Coke
21 Works and the West Works?

22 A. Yes, sir.

23 Q. How many employees work at the Coke Works?

24 A. About 400.

25 Q. How many work at the West facility?

1 A. 800.

2 Q. West Works, I guess.

3 A. Yes.

4 Q. Okay. And, in doing your recruiting and
5 hiring, do you hire for hourly positions at both of
6 those facilities?

7 A. Yes, sir.

8 Q. And has there been hiring that has
9 occurred at both of these facilities since January of
10 2000?

11 A. Yes, sir.

12 Q. Has there been any hiring since January of
13 2004?

14 A. Yes.

15 Q. Do you have records or anything that would
16 reflect the total number of hires that have occurred
17 since January of 2004?

18 A. No, sir.

19 Q. Do you, in fact, know, however, that there
20 have been hires since January of 2004?

21 A. There's been limited hiring in the salary
22 ranks.

23 Q. Has there been any hiring of any hourly
24 ranks?

25 A. I can't say for sure.

1 Q. Okay. Let me ask you this question. Is
2 there an entry level position -- hourly position for
3 which you hire at Ashland?

4 A. Yes.

5 Q. What is that entry level hourly position
6 called?

7 A. Would we be talking about the Coke Plants
8 or the West Works?

9 Q. Give me the Coke Plant first.

10 A. Coke Plant is heat relief labor and the
11 West Works is just labor.

12 Q. Is that the same thing as production or is
13 that a different kind of position?

14 MR. ROGERS: Objection to the form of the
15 question. At what facility are you talking,
16 Bob?

17 MR. CHILDS: I was looking through some
18 ads that you all had provided to us and it had
19 a job called production. And I didn't know
20 whether that was the same thing as laborer or a
21 different position.

22 Maybe you can answer, Greg, as well as the
23 witness. I'm just looking for some
24 clarification.

25 A. Production would be any jobs that aren't

1 maintenance.

2 Q. Any job that is not maintenance?

3 A. Yes, sir.

4 Q. All right. Do you keep records, Phyllis,
5 of hires into the Coke Plant and West Works?

6 MR. KAMMER: This one is Susan, not
7 Phyllis.

8 MR. CHILDS: Susan, excuse me.

9 Q. Do you keep records of hires into the Coke
10 Plant and the West Works?

11 A. Yes, sir.

12 Q. Okay. What kind of records do you
13 maintain of hires into these two facilities?

14 A. Their employment application, once they're
15 hired, goes into a personnel file and then you have
16 the information in an applicant log.

17 Q. Would you describe for me what the content
18 is of the applicant log, please, ma'am?

19 A. This would have a person's name, race and
20 sex.

21 Q. Anything else?

22 A. The date of application.

23 Q. Anything else?

24 A. At times I'll have just notes for myself
25 on that but --

1 Q. Is that always complete with these notes?

2 A. No.

3 Q. On what occasions do you make notes as
4 compared to when you do not?

5 A. Just more of a time thing. If I have the
6 time to put something in that database just as a
7 reminder for me, I'll do that. If I don't have the
8 time, then I don't. But I do always get their name
9 and race and sex and date in that -- in that
10 applicant flow.

11 Q. Do you keep track in this applicant flow
12 data of each step of the hiring process and whether
13 the employee makes it through each step?

14 A. No, sir.

15 Q. There are no logs that you would have from
16 January of 2004 which would show, in complete form,
17 in which step potential applicants at Ashland were
18 eliminated from the hiring process, is that correct?

19 A. That's correct.

20 Q. All right. Do you know from this
21 applicant's -- I mean, is this chart that you're
22 talking about, is it entitled applicant flow chart or
23 applicant log? What do you call it?

24 A. I'm not sure that I've always put a title
25 on it. It was an internal document that -- you know,

1 that I had.

2 Q. If I wanted to be sure that we have this
3 applicant log that you are talking about, what's the
4 name of the document so I can be sure and ask your
5 attorneys to be sure I got it?

6 A. I can't say.

7 Q. So the top of the document -- do you keep
8 it on your computer or is it a hard copy document?

9 A. We have entered AK database that we put
10 the applicant's name in, and it's like on our
11 intranet, and reports that get run don't get run by
12 me but are run off of that. And then prior to that I
13 just had an Excel spreadsheet that I'm not sure I
14 even had a title on it, I just knew what it was.

15 Q. Do you give this document, the applicant
16 log or this Excel spreadsheet, to anybody at the
17 Ashland Works?

18 A. No, sir.

19 Q. Do you give it to anybody at the
20 Middletown Works?

21 A. No, sir.

22 Q. Do you provide it to -- who do you report
23 to as manager of HR at Ashland?

24 A. Phyllis Short.

25 Q. Do you provide it to Phyllis as a manager?

1 What is she manager of, HR for AK Steel?
2 A. Yes.
3 Q. Do you provide this documentation to her?
4 A. No, sir.
5 Q. Okay. So as far as you know you're the
6 only individual that has this applicant log?
7 A. Yes, I am.
8 Q. Okay.
9 MR. CHILDS: Greg, I guess I would ask, is
10 that a copy of the three page document that we
11 got in Excel spreadsheet form for the period
12 2000 to 2002, or is this a different document
13 we're talking about?
14 MR. ROGERS: No, in preparation on Monday
15 we went over it, it's -- what I had is what I
16 printed off from what I produced to you.
17 MR. CHILDS: The same thing we talked
18 about?
19 MR. ROGERS: Yes.
20 MR. CHILDS: All right.
21 Q. Let me ask you this, Ms. Lester. How far
22 back do you have this applicant log information?
23 A. I'm really not sure how far back I have
24 that.
25 Q. Okay. Do you think you have it back to

1 January of 2000?

2 A. Yes.

3 Q. Okay. You don't know how much further
4 back you have it beyond that, is that right?

5 A. That's right.

6 Q. Okay. Let's talk a little bit about these
7 entry level positions, the two positions that you
8 have at the Coke Plant and the West Works in Ashland.

9 Am I correct, everybody who comes to work
10 in an hourly position at Ashland starts either as a
11 heat relief laborer in the Coke Plant or a laborer in
12 the West Works, is that correct?

13 A. Did you say everyone that comes to work at
14 Ashland Works?

15 Q. In an hourly position.

16 A. No, sir, that's not correct.

17 Q. Okay. What other positions do you hire
18 into at the Ashland Works?

19 A. Well, there's your salary positions.

20 Q. I'm talking about hourly --

21 A. Okay.

22 Q. -- not salary.

23 A. I hire maintenance repairmen, I hire
24 overhead crane operators, I hire electronics repair,
25 I hire locomotive engineers.

1 So I have some specialty things that I
2 will hire for, also, straight into hourly.

3 Q. This applicant flow log that you keep up,
4 do you have it broken down by job for which you do
5 your hiring?

6 A. Yes.

7 Q. So you can provide to us every laborer or
8 heat relief laborer that's been hired since January
9 of 2000, a list by name and race?

10 A. Yes, sir.

11 Q. Do you also, on this same piece of
12 information, have specialty jobs such as maintenance,
13 overhead crane, electrical repair and locomotive
14 engineer?

15 A. Yes.

16 Q. And you have logs -- applicant logs for
17 those particular individuals also?

18 A. Yes.

19 Q. And on none of these do you have
20 information that would be complete reflecting the
21 stage in the process that they were eliminated for
22 hire at your Ashland Works from January of 2000 to
23 present, is that correct?

24 A. That's correct.

25 Q. Do you have a judgment as to the total

1 number of laborers that have been hired at the
2 Ashland Works since January of 2000?

3 A. No, sir.

4 Q. Would these applicant logs that you have
5 reflect complete information, at least at the bottom
6 line, for all applicants who have applied through the
7 West Works and the Coke Plant at Ashland since
8 January of 2000?

9 A. I lost you in part of that. All
10 applicants that have applied --

11 Q. For laborer positions at the Ashland Coke
12 Plant or West Works since January of 2000.

13 A. I couldn't say for sure. I may be -- I
14 could have missed one.

15 Q. Okay. Do you have anybody that assists
16 you in this listing?

17 A. No, sir.

18 Q. Other than this applicant flow log that
19 you keep, is there any other document that would
20 reflect the name and race of the individuals who had
21 applied for laboring positions at the Ashland Works
22 since January of 2000?

23 A. There's a tear-off sheet off the
24 application that gives the race, you know, of an
25 applicant. It will have that little tear off on the

1 bottom, that's a separate individual piece of paper.

2 Q. So your application form has an
3 application with a tear-off sheet contained on it?

4 A. Yes, sir.

5 Q. All right. And are the tear-off sheets
6 and applications both retained by you?

7 A. Yes.

8 Q. Do you have all of the tear-off sheets
9 from January of 2000 to the present?

10 A. I couldn't say that I do for sure.

11 Q. Okay. Do you have -- do you do any kind
12 of process to try to assure yourself that you have
13 all the tear-off sheets for each applicant for
14 positions at the Ashland Works from January of 2000
15 to the present?

16 A. No. We would only keep the current and
17 one year past. So, you know, to say that I had 2000
18 ones, all of them, I'm not real sure.

19 Q. What do you -- you say you only keep the
20 present ones and the last year past. What do you do
21 with the ones beyond that two year period?

22 A. They are destroyed.

23 Q. So you would not even have complete
24 tear-off sheets for Ashland for any other year other
25 than 2004 -- I'm sorry, 2005 and 2004, is that

1 correct?

2 MR. ROGERS: Bob, when the lawsuit was
3 filed there was an instruction not to throw
4 things away. So as of that date things were
5 not thrown away.

6 Q. All right. So how far back do you
7 maintain and have tear-off sheets, please, ma'am?

8 A. I can't say. When was the suit filed?

9 MR. ROGERS: June 26, 2002.

10 A. 2002. Well, from that point on I would.

11 Q. Can you say for sure that in those
12 tear-off sheets that you have, you have complete -- a
13 complete group of all tear-off sheets?

14 A. No, I wouldn't say that to be totally 100
15 percent sure.

16 Q. And you can also not say with any degree
17 of surety that your applicant log has a complete list
18 of all applicants by race from January of 2000 to the
19 present?

20 A. I could have missed one or two.

21 Q. Okay. Why do you say you could have
22 missed one or two?

23 A. Just a busy -- very busy job. We do have
24 people that don't fill out an application that come
25 in and say they want to apply and they get an

1 the complete name, Kentucky department of employment,
2 is that right?

3 A. It's the Bureau of Employment Services.

4 Q. For Kentucky?

5 A. Right.

6 Q. Okay. What other entities have you used
7 to be involved in the initial phase of your hiring
8 process?

9 A. Our union contract has a civil rights
10 committee and the chairman of that civil rights
11 committee knows that I'm looking to increase the
12 diversity. We're looking for minority candidates.
13 So he will bring me resumes of employees -- I mean
14 applicants that he feels would be good candidates, so
15 I can have resumes, also, that I consider.

16 Q. Are there any other sources of
17 applications other than the Bureau of Employment
18 Services for Kentucky or the head of this civil
19 rights committee?

20 A. We have had job fairs in the community
21 that I would go to and I would invite the chairman --
22 civil rights chairman to go with me, also.

23 Q. Has the civil rights chairman been
24 different or is it the same person since January of
25 2000?

1 A. I can't really remember if he was doing it
2 back then, but it hasn't changed. So if anybody was
3 doing it, it was him.

4 Q. Who is "him"?

5 A. Rodney Cosby.

6 Q. All right. And do you know how long the
7 head of the civil rights committee has been involved
8 in any phase of the hiring process for the laborer
9 position at Ashland?

10 A. I'm really not sure. It's been several
11 years that we've worked together but --

12 Q. What's your best judgment?

13 A. Three, four years maybe.

14 Q. Since 2000 forward?

15 A. Possibly.

16 Q. Okay. So the first step in the process is
17 when you think there's going to be the need for
18 additional laborers you place an ad in the newspaper,
19 is that right?

20 A. Yes, sir.

21 Q. And what newspapers do you place ads in?

22 A. Normally I use just the Ashland Daily.

23 Q. Is that the only newspaper in Ashland?

24 A. Yes, sir.

25 Q. And you advertise -- you do not advertise

1 A. I think I just call them production
2 workers, just to see generally what I get.

3 Q. Okay. So you don't actually say laborer,
4 you use production worker?

5 A. That's correct.

6 Q. Do you place in the ad any kind of minimum
7 qualifications that an individual must have in order
8 to apply for this production or laborer's position?

9 A. I can't recall if I -- how specific I am
10 on that.

11 Q. Is there anything to guide an applicant as
12 to any minimum qualifications for this laborer
13 position in the ad?

14 A. I can't recall what all is in those ads.

15 Q. Well, let me ask you this directly. Is
16 there a minimum qualification for these
17 production/laborer positions that's been required by
18 AK Steel since January of 2000?

19 A. Yes, sir.

20 Q. What are the minimum qualifications for
21 this laborer/production job?

22 A. You have to have a high school diploma or
23 GED and be 18 years old.

24 Q. Has that been true since January of 2000?

25 A. Yes, sir.

1 Q. Had there been any other -- are there any
2 other minimum qualifications for these
3 laborer/production positions other than these two?

4 A. No, sir.

5 Q. Are there any preferred qualifications
6 that the company looks at for hiring into these
7 laborer positions -- laborer/production positions
8 other than these two?

9 A. No, sir.

10 Q. When you -- when you put an ad in the
11 paper, it looks like you may have done that, you
12 said, maybe three to five times since January of 2000
13 and you basically -- basically three newspapers, do
14 you tell the applicants or the people interested in
15 this job how much it's going to be paid -- how much
16 they're going to be paid as a production laborer?

17 A. Yes, sir.

18 Q. What is the general starting pay for a
19 production laborer?

20 A. I'm not sure all the ads had the same
21 thing because they have a contract, you know, that
22 will give them an increase. But right now it seems
23 like it's about \$14.25 an hour, something like that.

24 Q. And are the individuals informed or told
25 to apply at the Bureau of Employment Services for

1 Kentucky?

2 A. Yes, sir.

3 Q. Okay. And are all applications that are
4 evaluated or that have been evaluated through ads
5 been required that these applications be sent to the
6 Bureau of Employment Services for Kentucky?

7 A. Would you state that question again?

8 Q. You're right, that wasn't a good question.
9 I'm trying to figure out, since January of 2000, have
10 applications for laborer/production jobs been
11 collected by anybody, any entity outside of AK Steel,
12 other than the Bureau of Employment Services for
13 Kentucky?

14 MR. ROGERS: Do you understand the
15 question?

16 A. I don't know if Mr. Cosby's involvement is
17 considered outside of AK Steel. He's an AK Steel
18 employee.

19 Q. I was talking about an entity outside of
20 either you or Mr. Cosby.

21 A. No, sir.

22 Q. And let me be sure I understand exactly
23 the name of this agency that collected it for you in
24 Kentucky. Give me that name one more time.

25 A. I'm trying to think of the -- the name of

1 the -- the Department of Employment Services, but
2 it's under the Bureau of -- Kentucky Training and
3 Development or something like that. It's just your
4 local unemployment office.

5 Q. Does it have one location? Is there one
6 in Ashland?

7 A. There's one in Ashland, there's one in
8 Ohio. They're in several places.

9 Q. Where are the employees who you are
10 evaluating for hiring into the production or laborer
11 positions told to apply, only at the Ashland
12 location?

13 A. In the ad it's told to go to the Ashland
14 location.

15 Q. Do you accept applications from anywhere
16 else?

17 A. Yes. Evidently.

18 Q. Where else do you accept applications from
19 besides the Ashland office of the Department of
20 Employment Services for Kentucky?

21 A. I don't accept them from anyplace else.
22 But the other local agencies are on an Internet type
23 arrangement. The jobs are listed on America's Job
24 Bank. So I do know that the Ironton branch and a
25 couple times maybe even the Huntington branch has

1 forwarded or contacted the Ashland office and asked
2 could they fax one of our applications to their
3 office, that they had someone interested in that job
4 and that person couldn't get to Ashland. I know that
5 has happened because they have informed me of that.

6 Q. Is the Ashland office of the Kentucky
7 Department of Employment Services authorized to
8 accept applications that are sent to them in this
9 manner?

10 A. Yes, sir.

11 Q. Okay. And do you know out of your
12 applications for jobs since January of 2000 how many
13 such applications have been forwarded from other
14 agencies around Kentucky, Ohio, West Virginia to the
15 Ashland Department of Employment Services?

16 A. No, I wouldn't know how many.

17 Q. But you know it has happened on occasion?

18 A. Yes, sir.

19 Q. All right. And then you have also
20 received applications from Rodney Cosby?

21 A. Resumes from Rodney Cosby.

22 Q. Is that not an application?

23 A. Not at that time, no, sir.

24 Q. What do you mean by "not at that time"?

25 A. I mean a resume, and I'm going to get that

1 A. I have all resumes since that point. Now,
2 which ones were Cosby's and which ones were ones that
3 just got unsolicited and mailed in, you know, I
4 couldn't tell you. But I have all those since that
5 suit.

6 Q. Well, let me be sure, do you consider an
7 unsolicited resume or application that you get mailed
8 to you in the mail for hiring into a
9 laborer/production position, or are they all required
10 to go through either the Kentucky Department of
11 Employment Services or come through Rodney Cosby or
12 the job fair?

13 (Mr. Barty left the room.)

14 Q. Let me restate that question. Do you
15 accept a resume or an application that's sent in the
16 mail to you?

17 A. All resumes, I keep them. Normally I
18 would just maybe keep them three months. The ones
19 since this suit, you know, of course I have them
20 longer than that.

21 Applications, no, I don't accept those
22 through the mail.

23 Q. Okay. If you get a resume in the mail,
24 what do you do with it, since the filing of this
25 suit, January of 2002?

1 A. I stick it in a drawer.

2 Q. Do you send an application out to a person
3 who sends you a resume?

4 A. No, sir.

5 Q. Do you send an application to everybody
6 that Rodney Cosby gives you a resume for?

7 A. Yes, sir.

8 Q. Okay. Tell me how it operates at a job
9 fair. How many of these have you gone to since
10 January of 2000?

11 A. Four or five, maybe.

12 Q. And where have those job fairs been?

13 A. The Ashland Town Center Mall had a
14 community fair.

15 Q. Ashland Town Center Mall?

16 A. Yes, sir.

17 Q. Okay.

18 A. Marshall University in Huntington, West
19 Virginia.

20 Q. Marshall University in Huntington, okay.

21 A. Yes. The Portsmouth, Ohio Bureau of
22 Employment had one. I can't remember exactly where
23 that was in Portsmouth, Ohio, I went to that one.

24 These I invited Mr. Cosby to go along with
25 me. There was one over in Ironton, Ohio.

1 Ironton, I-r-o-n-t-o-n, Ironton. I went
2 to that one.

3 Q. Tell me how these job fairs -- I'm sorry,
4 did I interrupt you? Are there any others?

5 A. Russell High School had a community job
6 fair.

7 Q. Russell?

8 A. Russell, Kentucky.

9 Q. Okay. Any others?

10 A. I'm thinking. The Ohio University branch
11 had a job fair, that's also in Ironton. That was a
12 different one than the other one. I went to that
13 also.

14 Q. That's six. Are there any more?

15 A. That's all I can remember.

16 Q. Would you know when these job fairs were,
17 what years?

18 A. No, sir.

19 Q. Tell me what happens at a job fair.

20 A. We set up a booth and people come by and
21 talk about employment opportunities and leave a
22 resume.

1 I did give them an application. I didn't give
2 everybody else one, but any minority candidates that
3 came in, stopped by to see me, I went ahead and gave
4 them an application.

5 Q. Let me see if I understand. If an African
6 American came by your booth that Mr. Cosby did not
7 know, you took a resume from them but you did not
8 give them an application?

9 A. No, that's not correct.

10 Q. What is correct?

11 A. Any African American that stopped by,
12 because he wasn't there on all -- I wouldn't know
13 which ones he told to stop by, so I would give them
14 all one.

15 Q. Every African American candidate that
16 showed up at a job fair got an application?

17 A. That's correct.

18 Q. Did you keep a written record of each
19 African American to whom you gave an application at
20 these job fairs?

21 A. No, sir.

22 Q. Any way to go back and determine at this
23 point in time the African Americans you gave
24 applications to at these six job fairs?

25 A. No, sir.

1 face, they really do no screening at all, is that
2 correct?

3 A. Yeah, that's correct.

4 Q. So if it's not on the application -- does
5 the application that you have ask about years of age?

6 A. No, sir.

7 Q. Does the application that you have ask
8 them to list education?

9 A. Yes.

10 Q. Okay. And so only if an employee lists he
11 didn't graduate from high school would they be taken
12 out of the process?

13 A. That's correct.

14 Q. So, in essence, the vast majority of all
15 applications are sent to you from the Ashland Bureau
16 of Employment Services, is that correct, once they're
17 received there?

18 A. Yes, sir.

19 Q. Do you know or have any records in your
20 possession that would disclose the number of
21 applications that have been rejected for failure to
22 meet either the high school diploma GED or
23 18-year-old requirement?

24 A. No, sir, I don't know.

25 Q. You have no written records or

1 A. That's correct.

2 Q. All right. When you get -- and the only
3 screening, just to summarize, that is done on any of
4 these applications is going to really be high school
5 education or diploma or GED diploma, and that's only
6 if it's disclosed by the applicant?

7 A. The only -- could you repeat that
8 question?

9 Q. The only screening done in this initial
10 step which would be when received by the Department
11 of Employment Services at Ashland, would really be
12 for the high school diploma or GED, because the age
13 is not on the application?

14 A. Yes, sir, that's correct.

15 Q. And when you -- the only screening that's
16 initially done by you upon receipt of the
17 applications from individuals Rodney Cosby had
18 referred to you for applications received at the job
19 fair would also be for this high school diploma or
20 GED?

21 A. Would you repeat -- what groups are you
22 asking me? I wasn't sure.

23 Q. I'm asking basically for three groups, the
24 groups that you received applications have been
25 referred to you by the Department of Employment

1 production laborer position for the Ashland Works,
2 correct?

3 A. That's correct.

4 Q. Your records that you maintain on job --
5 on applications for these laborer/production jobs
6 would not reflect accurately which individuals had
7 been screened out for failure to meet the GED high
8 school education or 18 year of age requirement, is
9 that correct?

10 A. That's correct.

11 Q. All right. So the first step we've got is
12 the filing of the applications either to you
13 personally, to Rodney Cosby or at the job fairs or
14 through the Department of Employment Services, and
15 you've indicated there are minimum calls but you have
16 no records of it.

17 There are no preferred requirements, even
18 though they're not minimum qualifications, for any of
19 these laborer or production jobs, is that correct?

20 A. That's correct.

21 Q. Once you get the application in hand, you
22 then -- what's the next step in the hiring process?

23 A. I do look at the application myself after
24 they're sent to me from the employment office.

25 Q. What's the purpose for doing that?

1 A. I'm trying to see if maybe there are some
2 other minority candidates that came through, you
3 know, just saw our ad and went to the state office,
4 that maybe Mr. Cosby doesn't even know about. And I
5 will look at their comments on were they convicted of
6 a crime other than a minor traffic violation and I
7 will look at their work history, see if I see
8 something that I would think would be a problem.

9 Q. What would that be?

10 A. On the work history?

11 Q. Yes, ma'am.

12 A. Well, it's interesting what people put on
13 applications. But they will say that I was
14 terminated, problems with the boss, something like
15 that. Just sort of a red flag to me.

16 Q. Anything else?

17 A. They put on there things like that they
18 missed so many days in the last two years that
19 concern me about their attendance.

20 Q. Anything else?

21 A. Those are the areas I look at.

22 Q. Let me be sure I understand. You're
23 saying on all applications that you have received
24 from the Department of Employment Services in
25 Ashland, as well as applications given to you by

1 individuals referred by Rodney Cosby or individuals
2 that you get at the job fair -- applications you get
3 at the job fair, I'm sorry, you review those
4 applications before you call them in for a test to
5 determine whether they've been convicted of a crime
6 other than a minor traffic citation, you review it
7 for work history problems and you review it for
8 attendance problems, is that correct?

9 A. That's correct.

10 Q. Any other -- now, are these -- are
11 these -- do you consider these to be minimum
12 qualifications for the job and that's why you're
13 reviewing them in this manner?

14 A. I'm just exercising my judgment to select
15 what I think are the best. There's not anything that
16 I go by on that, just --

17 Q. Well, had you been instructed by the
18 company that you review these applications and
19 eliminate individuals for these three reasons that
20 you have delineated?

21 A. Oh, I have not been instructed by the
22 company.

23 Q. So you're just doing that on your own?

24 A. Yes, sir.

25 Q. And that's based on what authority since

1 your company has not told you to do that?

2 A. It's my job.

3 Q. Well, somebody has told you as part of
4 your job at the company that you're supposed to do
5 this then?

6 A. I've been told it's my job to get the best
7 candidates that I feel have a pretty good past. This
8 is my judgment, that a person -- that how your past
9 goes indicates what your future is going to be, it's
10 a fairly good indication of that. So I'm using my
11 judgment there.

12 Q. Your subjective judgment, is that correct?

13 A. That's correct.

14 Q. Okay. Now, how do you determine if an
15 employee lists that they got fired from a prior job
16 because of work-related problems, how do you know
17 whether that's going to make them good or bad?

18 A. It really is a matter of I have so many
19 other candidates in the file that there's no reason
20 for me to take the chance.

21 Q. So you're saying that this January of
22 2000, on any individual who indicated on their
23 application for a laborer or a production position
24 that they had been terminated from a prior position,
25 you eliminated them before the testing phase?

1 A. That's correct.

2 Q. Do you have records reflecting the name
3 and race of the individual that you made these
4 judgments on?

5 A. No, sir.

6 Q. You have no complete records to reflect
7 that so we could review it to see if it was impacting
8 blacks versus whites more harshly?

9 A. No, sir.

10 Q. Do you know how many individuals you have
11 removed from consideration from laborer or production
12 jobs at Ashland because of having been terminated
13 from prior employment during the period January of
14 2000 to the present?

15 A. No, sir.

16 Q. Would it be hundreds of applications?

17 A. No.

18 Q. Would it be between 10 and 50
19 applications?

20 A. I would say it would be between 50 and
21 100.

22 Q. Okay. You don't know the racial makeup of
23 that 50 to 100?

24 A. No, sir.

25 Q. Do you know if this requirement has

1 impacted more harshly on blacks versus whites?

2 A. No, sir.

3 Q. All right. What have you done -- now the
4 other thing you indicated was attendance.

5 What have you done -- what has your
6 criteria been since January of 2000 to eliminate
7 applicants for production laborer positions for
8 attendance problems?

9 A. Now, that was within the 50 to 100, that's
10 just one of them.

11 Q. Yeah, but what is the problem if they miss
12 ten days, five days a week? What number of days in
13 your mind indicated an attendance problem?

14 A. I don't have a number.

15 Q. So do you have any records to reflect how
16 many individuals you eliminated for attendance
17 problems and the length of their attendance --

18 A. No, sir.

19 Q. -- and number of attendance problems that
20 they have?

21 A. No.

22 Q. How many out of the 100 are comprised of
23 those that were eliminated because of attendance
24 problems?

25 A. I don't know.

1 Q. Was the majority eliminated because of
2 work-related problems as opposed to attendance
3 problems or vice versa?

4 A. I don't know.

5 Q. No judgment on that?

6 A. No, sir.

7 Q. So of your 100, 98 of them could have been
8 for attendance and only two for work history, you
9 just have no judgment one way or the other?

10 A. That's correct.

11 Q. You have no records in your possession
12 that would reflect in any way so that a court could
13 consider it, what were the reasons that you
14 eliminated applicants for either attendance or work
15 history, correct?

16 A. Correct.

17 Q. Now, convicted of a crime other than minor
18 traffic citation. Do you only consider convictions?

19 A. That's correct.

20 Q. You do not consider arrests?

21 A. No, sir.

22 Q. Never have?

23 A. No.

24 Q. All right. How many individuals have you
25 eliminated because of convictions for crimes other

1 than minor traffic citations since January of 2000?

2 A. Of course that's in the 50 to 100 I
3 mentioned.

4 Q. You have no records to indicate which
5 ones -- which applicants you've eliminated for
6 that --

7 A. No.

8 Q. -- conviction for a crime?

9 A. No.

10 Q. You don't know whether the majority of the
11 50 to 100 were eliminated for conviction for crime,
12 work history or attendance?

13 A. That's correct.

14 Q. All right. Once you go through this -- so
15 basically we got a screen that's conducted by the
16 employment service for high school education, GED and
17 18 years of age. Then you get the applications in
18 hand and you screen them for both of those two items,
19 plus convictions for crimes other than minor
20 employment -- I'm sorry, minor traffic citation, work
21 history problems and attendance problems, is that
22 correct?

23 A. That's correct.

24 Q. Once you go through those two screens, the
25 next step in the process is a test?

1 A. That's correct.

2 Q. Okay. How do you get notice to the
3 employees that they're going to be tested?

4 A. There's two ways. The majority of the
5 time I make all those phone calls myself. Mr. Cosby,
6 I will tell him to tell people if they're resumes
7 he's brought in to me.

8 We did have the state to help me with that
9 a little bit when we had a really big, big group.

10 Q. When was that?

11 A. I think that was 2003, 2004. No. No, it
12 would be 2002, 2003, like December to January of that
13 time frame.

14 Q. December of 2002 to January -- you did a
15 lot of hiring during that time frame?

16 A. No. I thought I was going to. We had a
17 freeze on hiring and we didn't do it. But I thought
18 I was going to.

19 Q. So how far through the process did you get
20 before you decided or you were told that you weren't
21 going to hire?

22 A. Got them tested.

23 Q. So you got them tested?

24 A. Yes.

25 Q. Then you were told that there was a freeze

1 and you weren't going to hire anybody?

2 A. That's right.

3 Q. You have not hired anybody since January
4 of '03?

5 A. I have hired people.

6 Q. How many?

7 A. I hired maybe 20 or so, I can't say for
8 sure, heat relief people at the Coke Plant.

9 Q. This would be labor or production?

10 A. Labor, right.

11 Q. They were all at the Coke Plant, you
12 think?

13 A. Yes, sir.

14 Q. Nothing at the West Works?

15 A. I can't say that for sure. I'd have to go
16 back and look. I don't think so.

17 Q. Now, in doing your notification for the
18 testing, do you keep records of every individual that
19 you talk to as to when you inform them to come in for
20 the test and their response?

21 A. I try to put a notation down, you know,
22 that I got a busy signal or left a message on an
23 answering machine, you know, specific things like
24 that.

25 So I don't always get them but I attempt

1 to.

2 Q. You don't know, though, as we sit here
3 today, how complete your records are regarding your
4 attempts to get somebody in for a test, correct?

5 A. No, I wouldn't know.

6 Q. How many times -- let's say you call and
7 get a busy signal, how many times do you call that
8 individual back?

9 A. Oh, I don't have any idea.

10 Q. I mean, can you testify that you, in fact,
11 have gotten in touch with every applicant to inform
12 them about the date they were to come in and take
13 a test?

14 A. No, sir.

15 Q. Was your answer no?

16 A. No.

17 Q. And you don't have complete records
18 reflecting this?

19 A. That's correct.

20 Q. Do you send letters out if you're having
21 trouble locating people through the phone telling
22 them when the test is going to be?

23 A. Mr. Cosby and I did that a couple times
24 where he was having trouble, I was having trouble, we
25 were both trying to get someone.

1 Q. What I'm asking now is the norm --

2 A. No.

3 Q. -- as opposed to special exceptions.

4 A. No, not as a norm.

5 Q. As a norm you do not send them anything in
6 writing telling them when they're going to be tested?

7 A. That's correct.

8 Q. You don't have any notations or any
9 indication or any written records that would reflect
10 when you have contacted these individuals or
11 whether you sent them any kind of written
12 instructions about taking the test?

13 A. That's correct.

14 Q. How complete would your -- your records
15 then would not be very complete regarding individuals
16 who didn't show up for the test or didn't want to
17 take the test, would they?

18 A. No. They wouldn't be complete.

19 Q. You have no idea as to how complete those
20 records would be, do you?

21 A. That's correct.

22 Q. Any phone -- you don't even know how
23 accurate your reflection of your phone call
24 conversations with these applicants are, do you?

25 A. No.

1 A. Not that I'm aware of.

2 Q. The third step of the process that we've
3 been talking about -- or the next step of the process
4 that we've been talking about is the administration
5 of a test, correct?

6 A. Yes, sir.

7 Q. Who administered -- has the same test been
8 used since January of 2000?

9 A. Yes, sir.

10 Q. What's the name of the test?

11 A. I'm not sure if I know the name.

12 Q. Give me your best judgment as to what you
13 think it's called.

14 A. I know what I call it.

15 Q. What do you call it?

16 A. AK Steel pre-employment test for Ashland
17 Works.

18 Q. I'm sorry, that was a little fast.

19 A. AK Steel pre-employment test for Ashland
20 Works.

21 Q. Okay. Now did you -- did you prepare this
22 test?

23 A. No, sir.

24 Q. Who prepared this test for the company?

25 A. Resource Associates.

1 Q. Where are they located?

2 A. Knoxville, Tennessee.

3 Q. And who at Resource Associates prepared
4 this test for AK Steel?

5 MR. ROGERS: If you know, tell her.

6 A. Lucy Gibson. Dr. Lucy Gibson.

7 Q. And was this an off-the-shelf test that
8 was put together by Resource Associates or a
9 specially designed test?

10 A. It was specially designed.

11 Q. What year was it designed?

12 A. I'm not real sure about that.

13 Q. Has it been in use since January of 2000?

14 A. Yes, sir.

15 Q. And what type of a test is it?

16 A. It has a paper and pencil format.

17 Q. Is it a general aptitude test?

18 A. It has an aptitude and a personality
19 inventory.

20 Q. Okay. Are those the only two components
21 of the test?

22 A. Yes, sir.

23 Q. Who administers this test or has
24 administered this test since January of 2000?

25 MR. ROGERS: Objection to the form. What

1 do you mean by "administer," Bob?

2 MR. CHILDS: Give the test.

3 Q. Is it given by you or given by somebody
4 from Resource Associates, where they monitor, hand it
5 out, time it, get it back or anything like that?

6 A. I have administered the test.

7 Q. You have?

8 A. Yes.

9 Q. Has the employment service also?

10 A. Yes, that one time frame I was telling you
11 about.

12 Q. Anybody else other than you or the
13 employment service?

14 A. No, sir.

15 Q. Sorry?

16 A. No.

17 Q. Okay. Is the test timed?

18 A. Yes, sir.

19 MR. ROGERS: Is there a question? I'm
20 sorry.

21 Q. How long is the test?

22 A. You know, just right now I can't remember
23 if it's 2 hours or 2 1/2 hours, but it's something
24 like that.

25 Q. And is there a score of -- a minimum pass

1 score on the test or pass/fail and, if so, what is
2 the score?

3 A. I don't know what the cut-off score is.
4 We get documents that say qualified, not qualified.

5 Q. All right. This is -- when the test is
6 taken, is it sent to Lucy Gibson?

7 A. Yes, sir.

8 Q. Then she grades it?

9 A. Yes.

10 Q. And she determines, based on that test,
11 whether individuals are qualified or not qualified?

12 A. That's correct.

13 Q. And you do not know what the cut-off score
14 is for determination of qualified versus not
15 qualified?

16 A. No, sir.

17 Q. Do you know if this test -- do you know
18 what validated under the uniform guidelines on
19 employee selection procedures means?

20 A. I know that it's a validated test but I'm
21 not, you know, an expert on what that all means.

22 Q. Do you know that based on a conversation
23 you had with Lucy -- Dr. -- I'm sorry, Dr. Gibson?

24 A. Yes.

25 Q. She told you it had been validated under

1 A. That's correct.

2 Q. Okay. That's going to be true from
3 January of 2000 to the present, correct?

4 A. That's correct.

5 Q. All right. After the test, you get the
6 test results back from Dr. Gibson, what's the next
7 step in the process?

8 A. You make a conditional offer of
9 employment -- I'm sorry, not yet. You interview.

10 Q. All right. Every applicant is interviewed
11 after they take the test?

12 A. Every applicant -- no, sir.

13 Q. Who determines who is interviewed and who
14 isn't interviewed?

15 A. We interview the people that pass the test
16 with the exception of the fact that maybe they put a
17 hiring freeze on, which has happened to me a couple
18 of times, so I didn't go any further than that.

19 Q. But to the extent that the hiring process
20 was in place, is every individual who is tested
21 interviewed that passes the test?

22 A. Yes, sir, if you can contact them.

23 Q. Do you know from your records which
24 individuals -- let me strike that.

25 I assume, then, some individuals who were

1 not interviewed after they passed the test were
2 eliminated from the application process for labor or
3 production worker, correct?

4 A. That's correct.

5 Q. Do your records reflect which of those
6 individuals you were or were not able to contact for
7 an interview?

8 A. As much as possible, I try to make
9 notations when I contact employees on their
10 applications but I couldn't say that I had time to
11 get it all on there.

12 Q. So to your knowledge your records would
13 not be complete as to those you were able to contact
14 about coming in for an interview, is that correct?

15 A. That's correct.

16 Q. Your records would not be complete
17 regarding those that said, I do not want to come in
18 for an interview, correct?

19 A. That's correct.

20 Q. You would have no way of going back to
21 your records now and determining whether you just
22 were not able to reach a potential applicant or they
23 chose not to come in for the interview, would you?

24 A. No, sir.

25 Q. Okay. Who conducts the interviews for the

1 jobs at Ashland?

2 A. We have -- I do, and we have another
3 individual that assists me. And then we do have
4 supervisors sometimes from different areas that just
5 like to sit in to see, you know, about the skills of
6 candidates.

7 Q. Well, since January of 2000 would you tell
8 me who has been involved in the interview process for
9 the labor production position at Ashland?

10 A. Susan Lester and Jerry Davis.

11 Q. Okay. And just for the record,
12 Ms. Lester, you're a white female?

13 A. Yes, sir.

14 Q. What about Jerry Davis?

15 A. He's a white male.

16 Q. What position is Mr. Davis?

17 A. He's a senior industrial engineer.

18 Q. Anybody else that's been involved in this
19 interview process since January of 2000 to the
20 present?

21 A. No, sir.

22 Q. But you say you do have others that just
23 sit in from time to time?

24 A. Yes.

25 Q. Who -- what would be the reason for that?

1 A. Well, it's just in -- I think on their
2 part of just seeing, you know, what these candidates
3 look like.

4 Q. This would be for laborer --

5 A. Yes, sir.

6 Q. -- positions? Who are these other
7 individuals that have sat in from time to time?

8 A. Various managers.

9 Q. Can you tell me who you're talking about?

10 A. No, I really can't. You know, they just
11 pop in, you know, when they have a minute, see how
12 things are going.

13 Q. Are any of these individuals African
14 American?

15 A. Well, yes, I've had a couple.

16 Q. Who?

17 A. David Fish.

18 Q. David Fish?

19 A. Yes, sir.

20 Q. He has sat in on occasion?

21 A. Yes.

22 Q. How many interviews has he sat in on?

23 A. I don't know.

24 Q. Any estimate?

25 A. 50 maybe.

1 Q. Okay. Any other African Americans?

2 A. Let me think. No, I believe Mr. Fish is
3 the only one.

4 Q. He is a supervisor in which area?

5 A. At the Coke Plant.

6 Q. Coke Plant. Okay. Tell me the purpose of
7 the interview process.

8 A. Well, we want to talk to them, interview
9 them, and get a feel for certain attributes we're
10 looking for. We try to -- we try to discover if
11 they've falsified their application in any way, just
12 that type of thing.

13 Q. Well, tell me, what are the attributes
14 that you're looking for to determine as part of this
15 interview process?

16 A. Conscientiousness, positive attitude,
17 safety, teamwork.

18 Q. Hold it, you're going a little fast there.
19 Consciousness --

20 A. Conscientiousness.

21 Q. Anything else?

22 A. Safety, teamwork, positive attitude,
23 motivational fit, problem solving.

24 There could be a few more, I'm trying to
25 remember, but that's sort of the kinds of things we

1 look at.

2 Q. Is this a part of a structured interview?

3 A. Yes, sir.

4 Q. And who designed this structured
5 interview?

6 A. Select International.

7 Q. Select, S-e-l-e-c-t?

8 A. Yes, sir.

9 Q. And where are they located?

10 A. I'm not sure.

11 Q. Who at Select International designed this?

12 A. I don't know the name of the person.

13 Q. Is it -- do you always use the same set of
14 questions for every candidate?

15 A. Mr. Davis has a set and I have a set.

16 They're still measuring the same attributes, they're
17 just different questions.

18 Q. Would you tell me how the questions you
19 ask measure conscientiousness.

20 A. Okay. On a behavioral interview you ask
21 them to give you examples. You don't just say, are
22 you conscientious, you say, what does your supervisor
23 say about you. Give me an example of the time when
24 you went above the call of duty, that type of thing.

25 Then, you know, you get them to pin down

1 and actually give you examples.

2 Q. And then do you rate those examples
3 between 1 and 5?

4 A. Right. We rate -- based on how many
5 examples they can give you, you would rate them
6 between -- actually the scale goes from 1 to 10.

7 Q. Is it based on the number of examples --
8 or the value and the number of these examples?

9 A. It's a little of both.

10 Q. I would assume reaching that judgment as
11 part of this interview process is going to require
12 some subjective judgments on your part?

13 A. That's correct.

14 Q. And, in fact, you and Mr. Davis may
15 disagree as far as the rating, correct?

16 A. That's true.

17 Q. And would it be also safe to say that
18 those same responses would apply to your
19 determination of teamwork, motivational fit, problem
20 solving -- and what was the other, position --

21 A. Let's see, adaptability, did I tell you
22 that one? Teamwork, safety, problem solving,
23 positive attitude.

24 Q. Motivational fit. All of those would
25 require ratings from 1 to 10 that are going to

1 require subjective judgments on your part and
2 Mr. Davis' part?

3 A. That's correct.

4 Q. And then do you ask the same exact
5 questions of every candidate?

6 A. Yes, sir.

7 Q. All right. And then how do you select --
8 is there a cut-off score or a pass/fail score or does
9 the highest point-getter go forward? What is the
10 determination?

11 A. The way the scale is set up, anywhere
12 between 5 to 6 or above is an acceptable fit,
13 acceptable behavior, I guess is the way you'd put it.
14 Anything below 5 would be a less than acceptable
15 behavior.

16 Q. Do you have accurate records reflecting
17 each individual who scored 5, 6 or above on these
18 structured interviews since January of 2000?

19 A. I would say we do. I'm not sure if 100
20 percent of it's there.

21 Q. Is there -- again, because you're marking
22 it down, you're not sure if you've got everybody or
23 not?

24 A. That's correct.

25 Q. Do you have written scores for each

1 they call it a validation study, I don't know if
2 that's the same thing as a validation study for the
3 paper and pencil. I better not answer. I'm not an
4 expert on that.

5 Q. Have you ever seen a validation report on
6 this structured interview process?

7 A. No. No.

8 Q. Hello?

9 A. No, sir.

10 Q. Okay. All right. After the interview,
11 what's the next step in the process?

12 A. Then we do a background check.

13 Q. What is that composed of?

14 A. We have a company that does that for us.

15 Q. Who is that company?

16 A. BackTrack.

17 Q. B-a-c-k-T-r-a-c-k?

18 A. I think so.

19 Q. BackTrack. Where are they located?

20 A. Mentor, M-e-n-t-o-r, Ohio.

21 Q. Before I forget, Select International,
22 where are they located?

23 A. Knoxville, Tennessee.

24 Q. Are they affiliated or a company that's
25 part of Dr. Gibson's group?

1 you just couldn't reach as well as somebody who
2 didn't want it? There's no way for you to know those
3 you couldn't reach to those that didn't want it, is
4 there?

5 A. A person that I can't reach does not
6 necessarily mean they don't want it. I will keep
7 them in the active file. Who knows, I might call
8 them again or try again.

9 But once they say no, I don't want it,
10 they come out of that, they get stuck back in an
11 inactive file.

12 Q. You do not have complete records of every
13 individual who's indicated at the point in time after
14 the freeze was lifted that they no longer want the
15 job, do you?

16 A. Right.

17 Q. Of the 20 people who have been hired as
18 laborers after January 1, '03, how many were African
19 Americans?

20 A. Oh, I can't -- I don't know.

21 Q. Do you know if any of the 20 that were
22 African Americans?

23 A. Yes, sir.

24 Q. How many?

25 A. I don't know how many.

1 AK Steel at Ashland to your knowledge?

2 A. No, sir.

3 Q. Or preference of any kind if it was a
4 minimum qualification for military personnel?

5 A. No, sir.

6 Q. All right. We have gotten to the test or
7 to the offer of employment. Is there a step left
8 after the offer of employment?

9 A. Yes, sir.

10 Q. What is that?

11 A. A drug screen and a physical.

12 Q. Okay. And who conducts the drug screen
13 and physical?

14 A. Our medical department.

15 Q. Any particular doctor?

16 A. We have three doctors on contract that do
17 this for us.

18 Q. Who are they?

19 A. You know, I just know their last names.

20 Q. Okay. Last names will be great.

21 A. Dr. Chapman.

22 Q. C-h-a-t-m-a-n?

23 A. No, P, C-h-a-p-m-a-n.

24 Q. Okay.

25 A. Dr. Baldera.

1 incorrect.

2 A. They don't say they don't meet AK hiring
3 standards, they say they do not meet AK standards on
4 the substance abuse pre-employment test.

5 Q. What are AK Steel's standards on substance
6 abuse?

7 A. I don't have that access to that right now
8 to tell you what that is.

9 Q. You've been doing this hiring since
10 January of 2000, you don't know what that is?

11 A. No, sir.

12 Q. Do you know whether that policy is in a
13 written format?

14 A. I would speculate that it is.

15 Q. Have you ever seen it in a written format?

16 A. No, sir.

17 Q. Can you recall enough about it at this
18 point in time to tell me what you think it is?

19 A. No, sir.

20 Q. Who would have a copy of this substance
21 abuse policy at AK Steel that's been in effect from
22 January of 2000 to the present?

23 A. Our medical department has all those
24 records.

25 Q. Do you have any knowledge as to the number

1 of individuals that were eliminated from the
2 application process because of violation of a
3 substance abuse policy?

4 A. In a database, no. Very few.

5 Q. Do you have -- you would have written
6 documentation back from the medical department.

7 Where would that letter or notification be?

8 A. The medical department keeps that.

9 Q. So that's in a file maintained in the
10 medical department if we want to know which employees
11 have not met the substance abuse standards?

12 A. Which candidates, yes, sir.

13 Q. Would you have an accurate reflection of
14 all those candidates in your applicant flow
15 information?

16 A. I wouldn't be sure of that, that it was
17 100 percent. I mean, I could reconstruct it but --

18 Q. You're not sure based on the applicant
19 flow information that we have that we've got all of
20 it, correct?

21 A. That's true.

22 Q. Okay. What do they do in regard to the
23 physical aspects of the exam?

24 A. Well, I'm of course not expert on this
25 either, but there's certain OSHA requirements for

1 respirators, that a person has to be able to have
2 a certain breathing capacity to be able to wear a
3 respirator or, you know, in certain health conditions
4 that would keep you from being able to wear a
5 respirator, that could be an issue.

6 They could have lifting restrictions that
7 would not allow them to do a laborer's job. Just
8 many things like that that relate to the essential
9 functions of that job.

10 Q. Again, do you get a written -- do you know
11 what these physical requirements are?

12 A. Yes, sir.

13 Q. All right. Have you given all of them
14 that you're aware of?

15 A. Yes.

16 Q. Do you get a written report back from
17 medical regarding these physical restrictions, too?

18 A. Yes, sir.

19 Q. Are all of those individuals that are
20 eliminated because of a physical problem set forth in
21 your applicant flow data?

22 A. I'm not sure that all of them are in
23 there, the document, of the applicant flow, but there
24 is, you know, ways to produce that or there is
25 records to access that.

1 Q. That would be maintained in the medical
2 department?

3 A. Yes, sir.

4 Q. But as to whether you have complete
5 records in that regard, you don't know whether you do
6 or not, do you?

7 A. On the applicant flow, no.

8 Q. Or any of the records that you maintain in
9 HR?

10 A. That's correct.

11 Q. All right. Once the individual passes the
12 drug screen and the physical, what happens next in
13 the hiring process?

14 A. They are scheduled for their first day of
15 work for safety orientation and that's that.

16 Q. They're, in effect, hired after they pass
17 the drug screen and the physical?

18 A. Availability to get them a safety
19 orientation sometimes maybe delays it by a week or
20 two or sometimes they want to give a notice to an
21 employer. We just sort of are flexible on that.

22 Q. Employees who pass the drug screen and
23 physical, are there any other steps that they must go
24 through other than getting their orientation before
25 they become an employee?